HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.18532 of 1998

Dated 26th day of July , 2007

Between:

K. Kanakamma ..
Petitioner

And

The Revenue Divisional Officer,
Karimnagar
and another ..
Respondents

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O R D E R:

This writ petition is filed seeking a mandamus to declare the order dated 20.4.1998 passed by the 1st respondent- Revenue Divisional Officer by which the assignment of lands made in favour of the petitioner's husband, late K.Bhoomaiah, was cancelled, as arbitrary and illegal, and consequently direct the respondents to continue the petitioner in possession of the assigned lands of an extent of Ac.0.35 guntas in S.No.120/16 and Ac.0.32 guntas in S.No.120/17 situated in Arepally village.

The petitioner asserts that the 2nd respondent, vide his proceedings dated 4.10.1992, assigned an extent of Ac.0.35 guntas of land in S.No.120/16 and Ac.0.32 guntas in S.No.120/17 situated in Arepally village, Karimnagar Mandal, Karimnagar District to her husband, late Bhoomaiah, who was an Ex-service man. On 3.7.1995, this assignment was duly recorded in the revenue records as per the provisions of Record of Rights Act and a pattadar passbook was also issued in his favour. After his death, the petitioner, who is his wife, has been in continuous possession and enjoyment of the lands in question. While so, the 1st respondent-Revenue Divisional Officer, issued a show cause notice dated 18.2.1997 in the name of her husband calling for explanation as to why the assigned lands should not be cancelled on certain grounds. Now, the petitioner's grievance is that in spite of submitting her explanation to the show cause notice, the 1st respondent- Revenue Divisional Officer issued the impugned order cancelling the assignment of lands made in favour of her husband.

The respondents have filed counter *inter alia* denying the averments made in affidavit filed in support of the writ petition.

According to the learned counsel for the petitioner, Section 166-B of Andhra Pradesh (Telangana Area) Land Revenue Act 1317 F (for brevity "the Act") itself clearly postulates that it is only either the Collector or the Joint Collector who can initiate proceedings under this Section, but it is clear that the impugned order dated 20.4.1998 was issued by the 1st respondent-Revenue Divisional Officer, and hence, the same is without jurisdiction.

However, the learned Government Pleader for Assignment has submitted that the Collector, Karimnagar, vide proceedings dated 5.11.1996, had delegated powers to the 1st respondent, and therefore, the 1st respondent issued the impugned order.

The point involved in this writ petition is whether the Proceedings initiated by the 1st respondent-Revenue Divisional Officer under Section 166-B of the Act are perfectly justified or not.

Section 166-B of the Act deals with revisional jurisdiction of the authority and according to the provision of law, any Land Revenue Officer not below the rank of a Collector may call for record of a case or proceeding. Hence, it is clear that either the Collector or the Joint Collector alone can entertain a revision. However, as the stand of the Government is that the Collector had delegated powers to the 1st respondent by proceedings dated 5.11.1996, this Court directed the learned Government Pleader to produce the proceedings, but according to the learned Government Pleader, though the entire record is received, the proceedings delegating the powers to the 1st respondent are not available in it. Hence, this Court is of the view that the contention that the Collector had delegated the powers to the Revenue Divisional Officer cannot be accepted and the order

impugned is liable to be set aside.

In the result, the writ petition is allowed and the impugned order, dated 20.4.1998 issued by the 1st respondent-Revenue Divisional Officer is hereby quashed. No costs.

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26.07.2007

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